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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,056	02/28/2002	Noel Kerjean	Q68613	6464

7590 11/19/2003

SUGHRUE MION, PLLC  
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Washington, DC 20037-3213

EXAMINER

WEAVER, SUE A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/084,056

Applicant(s)

KERJEAN, NOEL

Examiner

Sue A. Weaver

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 10-20 is/are rejected.
- 7) ☒ Claim(s) 2 and 5-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant is advised that there doesn't appear to be sufficient structure set forth in claims 11-20 for a mere "retainer" (see claim 11 and 13) and a "lock" (see claim 15) without and particular structure, to effect the function of retaining a portion of the closed loop so as to form a closed double loop (claims 11) or to effect the function of preventing the stand of cord from sliding (claim 15), as claimed. To the extent that applicant intends the retainer to be treated as a retaining means and the lock to be treated as a locking means, then the examiner is unable to determine any difference in scope between claims 1-10 and 11-20. It would appear that to the extent that applicant does imply any structure, the scope of the claims is the same and therefore claims 11-20 are essentially duplicates of claims 1-10. It is noted that applicant doesn't appear to have made any remarks considering new claims 11-20.

2. Applicant is advised that should claims 1-10 be found allowable, claims 11-20 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson, of record.

Note that Robertson teaches a carrying system for an instrument which includes a cord at 10. Robertson further teaches the provision of a member 15 on the cord which receives the ends of the cord through passage 20 to define a closed loop. Note that a portion of the closed loop is further threaded through a transverse passage to form a closed double loop (13, 14) of the closed loop so as to reduce the size. The transverse passage at 21 is considered to provide retaining means on the member 15, as claimed.

4. Claims 3, 4, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 1 and 11 above, and further in view of either Orech et al or Strykower, both of record.

To have further provided a second retaining means for the cord such as when an end of the cord is received by the member would have been obvious in view of such teaching by either Orech et al or Strykower. Note that the cord is mounted to slide in the second retaining means.

5. Claims 10 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the reference as applied to claims 1 and 11 above, and further in view of Teurlings, of record.

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To have made the cord of a length greater than 40 cm so as to be received about the neck would have been obvious in view of such teaching by Teurlings.

6. Claims 2 and 5-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments, see pages 6-8 of the paper, filed 9/9/03, with respect to the rejections of claims 5-7 have been fully considered and are persuasive. The rejection of the claims has been withdrawn.

Applicant's arguments, see pages 6-8 of the paper, filed 9/9/03, with respect to the rejection(s) of claim(s) 1, 3 and 4 under 35 USC 102(b) and 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Robertson.

Claims 1, 3, 4, 10 and 11-20 have been rejected while claims 2 and 5-9 have been objected to.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lee teaches a cord member which receives the ends of a loop and has a retaining means which forms a double loop of the close loop as claimed

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information

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and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (703) 308-1186. The examiner can normally be reached on Tuesday-Friday.

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— The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3579.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Sue A. Weaver  
Primary Examiner

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